

## § 503.5

with investigatory and law enforcement authority, as delegated from DHS, to carry out the provisions under 8 U.S.C. 1184(c).

*Wages* mean all forms of cash remuneration to a worker by an employer in payment for personal services.

### § 503.5 Temporary need.

(a) An employer seeking certification under 20 CFR part 655, Subpart A must establish that its need for non-agricultural services or labor is temporary, regardless of whether the underlying job is permanent or temporary. 8 CFR 214.2(h)(6)(ii)(A).

(b) The employer's need is considered temporary if justified to the CO as one of the following: a one-time occurrence; a seasonal need; a peakload need; or an intermittent need, as defined by DHS. 8 CFR 214.2(h)(6)(ii)(B).

### § 503.6 Waiver of rights prohibited.

A person may not seek to have an H-2B worker, a worker in corresponding employment, or any other person, including but not limited to a U.S. worker improperly rejected for employment or improperly laid off or displaced, waive or modify any rights conferred under 8 U.S.C. 1184(c), 20 CFR part 655, Subpart A, or the regulations in this part. Any agreement by an employee purporting to waive or modify any rights given to said person under these provisions will be void as contrary to public policy except as follows:

(a) Waivers or modifications of rights or obligations hereunder in favor of the Secretary will be valid for purposes of enforcement; and

(b) Agreements in settlement of private litigation are permitted.

### § 503.7 Investigation authority of Secretary.

(a) *Authority of the Administrator, WHD.* The Secretary of Homeland Security has delegated to the Secretary, under 8 U.S.C. 1184(c)(14)(B), authority to perform investigative and enforcement functions. The Administrator, WHD will perform all such functions.

(b) *Conduct of investigations.* The Secretary, through the WHD, may investigate to determine compliance with obligations under 8 U.S.C. 1184(c), 20 CFR part 655, Subpart A, or the regula-

## 29 CFR Ch. V (7-1-12 Edition)

tions in this part, either under a complaint or otherwise, as may be appropriate. In connection with such an investigation, WHD may enter and inspect any premises, land, property, worksite, vehicles, structure, facility, place and records (and make transcriptions, photographs, scans, videos, photocopies, or use any other means to record the content of the records or preserve images of places or objects), question any person, or gather any information, in whatever form, as may be appropriate.

(c) *Confidential investigation.* The WHD will conduct investigations in a manner that protects the confidentiality of any complainant or other person who provides information to the Secretary in good faith.

(d) *Report of violations.* Any person may report a violation of the obligations imposed by 8 U.S.C. 1184(c), 20 CFR part 655, Subpart A, or the regulations in this part to the Secretary by advising any local office of the SWA, ETA, WHD or any other authorized representative of the Secretary. The office or person receiving such a report will refer it to the appropriate office of WHD for the geographic area in which the reported violation is alleged to have occurred.

### § 503.8 Accuracy of information, statements, data.

Information, statements, and data submitted in compliance with 8 U.S.C. 1184(c) or the regulations in this part are subject to 18 U.S.C. 1001, which provides, with regard to statements or entries generally, that whoever, in any matter within the jurisdiction of any department or agency of the U.S., knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme, or device, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, will be fined not more than \$250,000 or imprisoned not more than 5 years, or both.